

Army In-sourcing

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STRATEGIC ENVIRONMENT



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Strategic Environment

- House Appropriations Subcommittee on Defense (HAC-D) Hearings 12 Feb 09 on contracting and in-sourcing
 - HAC-D restored approx. \$1.4B O&M based on Army in-sourcing and CMR
 - NDAA 2008 §324 – Special consideration for in-sourcing
 - NDAA 2008 §807 – SecArmy Annual Review of Contract Services Inventory for inherently governmental/personal services
 - NDAA 2008 established Wartime Commission on Contracting with interim report due to Congress March 2009
 - In NDAA 2009:
 - Congress stated it would take further action in NDAA 2010 regarding their perception that we have excessively contracted inherently governmental/personal services
 - Two senses of Congress regarding contract interrogators and private security contractors (PSC)
- The President's Agenda – Defense
 - Reform Contracting
 - Create transparency for Military Contractors
 - Restore Honesty, Openness, and Commonsense to Contracting and Procurement



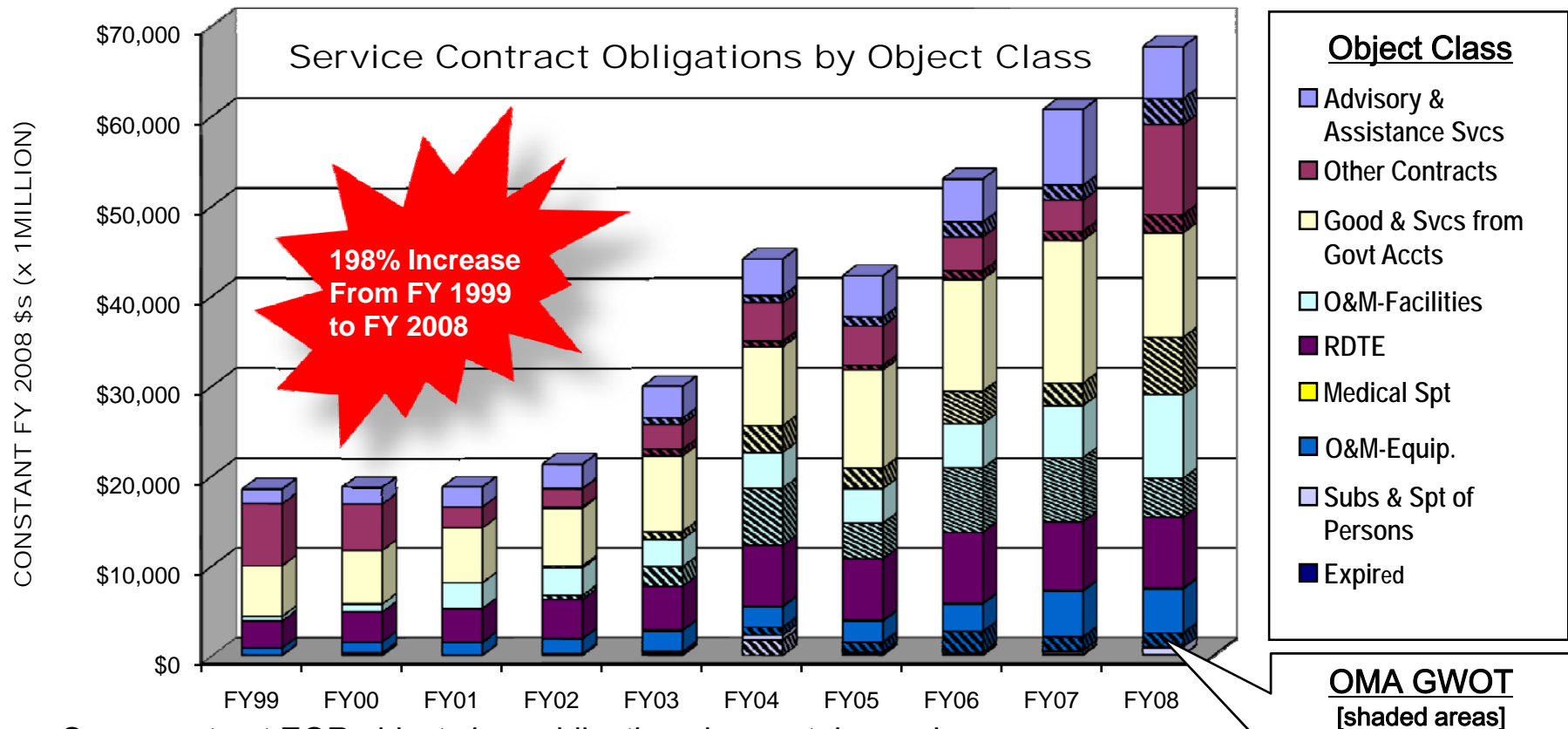


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Growing Reliance on Contractors



- Some contract EOR object class obligation also contain goods
- Programmed reductions in contracted services in FY10-15 were followed by contract service increases in the year of execution
- Contractor manpower reporting level of detail is required to program and execute contract service reductions

GWOT obligations accounted for ~26% in FY 2008.

Both program year and year of execution constraints are needed.



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Strategic Environment Definitions

OMB A-76

FAIR Act

**Called
Inherently
Governmental
by Some**

**Inherently
Governmental**

**NDAA 08
§324 &
§807 and
Other
Statutes**

**Called “Commercial”
by Some**

**DODI
1100.22**

**Closely Associated
With Inherently
Governmental**

FAR

Exemptions

**Closely Associated With Inherently Governmental sometimes can become
Inherently Governmental based on how operate and not just based on SOW**

Strategic Environment Externalities

"How We Got Here"

Second Order Effect

Requirements
Determination

Force Structure
and ES

Weapon System
Acquisitions

PPBE

Contract "Decision"

COCOM
"decision" to
contract 200K

CLS
footprint

Constraining military
ES and civilian Auths
promotes growth in
contract workforce

Contracting provides
ability for deviation in
programmed spending
during YOE and at year
end

FAR states KO is
Responsible to ensure
contract is not IG

Different decision making venues treat contracting decision/policy concerns as an externality

STATUTORY REQUIEEMENTS



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10USCS § 2330a as Amended by NDAA08 § 807

- Directs DoD to submit to Congress not later than end of 3rd quarter each fiscal year an annual inventory of the activities performed during the preceding fiscal year pursuant to contracts for service. The inventory shall identify:
 - Missions and functions performed by contractor
 - Contracting organization, component of DoD administering the contract, and requiring activity
 - Funding source by appropriation and operating agency
 - Fiscal year the activity first appeared on inventory
 - Number of full time contract equivalents paid for performance of activity
 - Personal services determination
 - Other federal procurement data system data, such as contract number, type of contract, whether competitive or sole source
- Directs Secretary of military departments to review contracts in inventory within 90 days of date of its submission to Congress for the following issues and to take appropriate corrective action:
 - Unauthorized personal services contracts (i.e. contractors operating as employees)
 - Contracts include inherently governmental functions
 - Contracts include functions closely associated with inherently governmental functions
 - Contracts should be considered for conversion to DoD civilian employee performance



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Status of 807 Contractor Inventory

Used Contract Manpower Reporting (CMR) for Section 807 Inventory

- Annual reporting of direct labor hours, direct labor costs and invoiced amount by contractors and sub-contractors at task order, requiring activity, zip code where performed and functional level of detail
- Direct labor hours divided by 2,087 hours to yield Full Time Equivalent which is different than headcount
- Section 807 review and planning by Resource Managers and Manpower Community
 - Inventory used as baseline for Total Workforce planning (military, civilian and contract) and developing in-sourcing plans at Departmental level.
 - Reviews also determine how much delta with DFAS object class 25 obligations is attributable to under-reporting versus DFAS classifications of goods as services (e.g., ammo)
 - Need accurate contractor FTE aligned to right organizations and funding sources to develop executable strategic in-sourcing plans at Departmental level

Fiscal Year	CMR - Contractor Reported Data				Alternative Data Sources for Contract Dollars (Goods Classified as Services)		Alternate FTE Estimate Using Statistical Methods (Methods Skewed by ODCs)	
	Direct Labor	Contractor Reported FTEs	Direct Labor / FTE	Invoiced Amount	Object Class 2500	FPDS	Object Class 2500 FTEs	FPDS FTS
2007	\$12.7B	170K	\$74K	\$31B	\$58B	\$63.4B	783K	857K
2008	\$16.3B	205K	\$79K	\$33B	\$60B	\$91.3B	759K	1,155K

- CMRA scope: contracted services & RDTE (excluding construction & utilities)
- OUSD(ATL) is exploring options for section 807 reporting
 - Navy and AF may use statistical sampling with FPDS data for first submission
 - Exploring standardizing contractor reporting requirements





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10USCS § 2463 as Amended by NDAA08 § 324

- Directs special consideration be provided to federal government employee performance of contracted work for
 - Any function that has been performed by DoD civilian employees at any time during previous 10 years;
 - Is a function closely associated with performance of an inherently governmental function;
 - Has been performed pursuant to a contract awarded on a non-competitive basis; or
 - Has been performed poorly by a contractor due to excessive costs or inferior quality work.
- Specifically bars the use of the OMB Circular A-76 processes to implement its requirements
- Directs the use of a contractor inventory required by 10USCS § 2330a as Amended by NDAA08 § 807 to identify contracted functions that should be considered for performance by DoD civilian employees
- Prohibits limitations or restrictions on the number of activities that may be in-sourced



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Status of In-sourcing under Section 324

- **CHECKLIST.** Checklist pulls together in one document statutory definitions of inherently governmental, closely associated w/inherently governmental, personal services & other §324 req'ts
 - Since Oct 08, Army contract offices will not process action without certification from GO/SES on Checklist (no thresholds for review but may aggregate contracts by function)
 - Checklist must be prepared by requiring activity and focus on how contract will operate and not just written Statement of Work (statutory definitions adequate in non-contingency operations)
 - Army Audit Agency review
- **AUTHORIZATIONS.** Concept plan process established for providing civilian authorizations to commands seeking to in-source functions
 - Enduring funding source must be identified (and supporting cost analysis): major hurdle
 - May over-hire until authorization documented
 - To date, in-sourced 1164 positions performing closely associated with inherently governmental functions or unauthorized personal services at average savings \$46K per position
- **TOTAL WORKFORCE PLANNING.** Command Plan process reviewing CMR data and checklist to project and classify contractor FTEs on TDAs (manning documents that show military, civilian and contractors by organization, functions, funding source) projected through FY13
 - Check for duplication of effort between contractors and military/civilian
 - Identify potential in-sourcing candidates (most are closely associated with inherently gov'tl)
 - Identify enduring and non-enduring contract requirements and align funding based on execution
- **Challenge:** how to meet “special consideration” requirement when authorization required for civilian hire but contract decision de-centralized and only requires funds
- **Issue:** How to implement in other processes: TAA, MER process, other PPBE processes





10USCS § 2383

May contract for performance of “acquisition functions closely associated with inherently governmental functions” only when

- Military or civilians cannot reasonably be made available to perform the functions
- Appropriate military or civilians supervise the contract performance and perform inherently governmental functions
- Agency addresses any potential organizational conflict of interest of the contractor in performance of the functions under the contract
- Defines closely associated with inherently governmental functions based on FAR (see Army checklist)





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Impact of the cap on HQ staffing on the acquisition workforce

- 10 USC § 3014(f) limits number of members of Armed Forces and Civilian Employees assigned or detailed to permanent duty in Office of SecArmy and Army Staff to 3,105
 - Limitations do not apply during National Emergency which expires 14 Sep 09 (unless renewed)
- FY09 limit adjusted to 3,260 based on 5% waiver (in-sourcing closely associated with inherently governmental functions) per NDAA09 § 1111
- As of Dec 08, HQDA was over adjusted limit by 344 personnel
 - 214 of excess attributable to in-sourcing
- HQDA had 884 Contractor FTEs assigned in FY08
 - Most contractors performing acquisition-related functions
- HQDA had 1,105 military/civilian employees and 6,427.6 contractor FTEs assigned to FOAs as of 1 Dec 08
- NDAA09 § 1111 states limit does not apply limit to acquisition personnel hired pursuant to expedited hiring authority provided in 10 USC § 1705(h) (as amended by NDAA09 § 821)
 - 247 currently documented civilian acquisition positions could be exempt from personnel ceiling if hiring authority needed
 - 75 additional civilian acquisition positions could also be exempt from personnel ceiling if hiring authority needed
- Support DoD legislative proposal to repeal remaining HQ limits



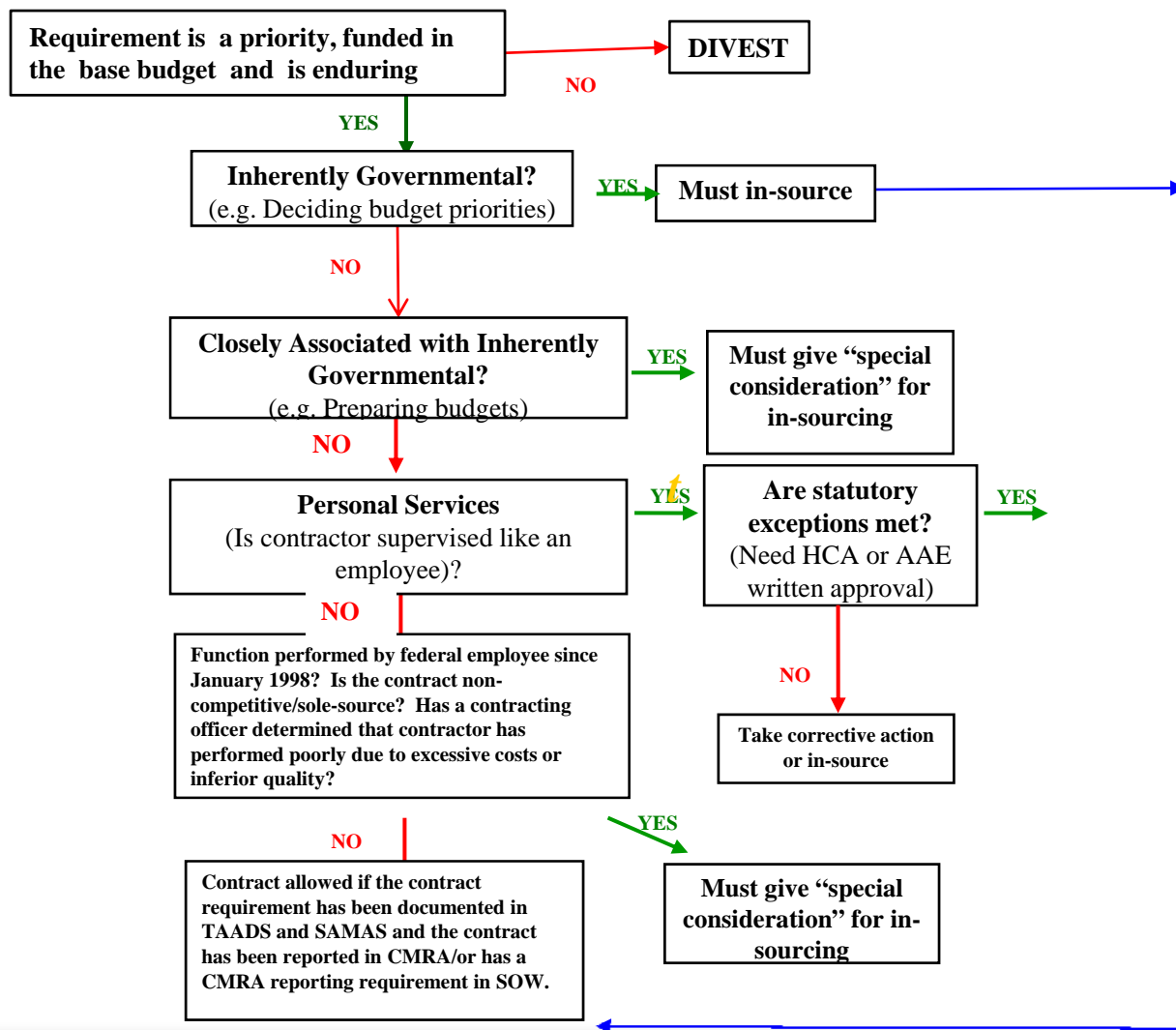
BUSINESS PROCESS



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What contracts and functions are suitable for in-sourcing



❖ **Identified and enforced through use of check lists and certifications required before initiating contract or exercising option to renew contract**

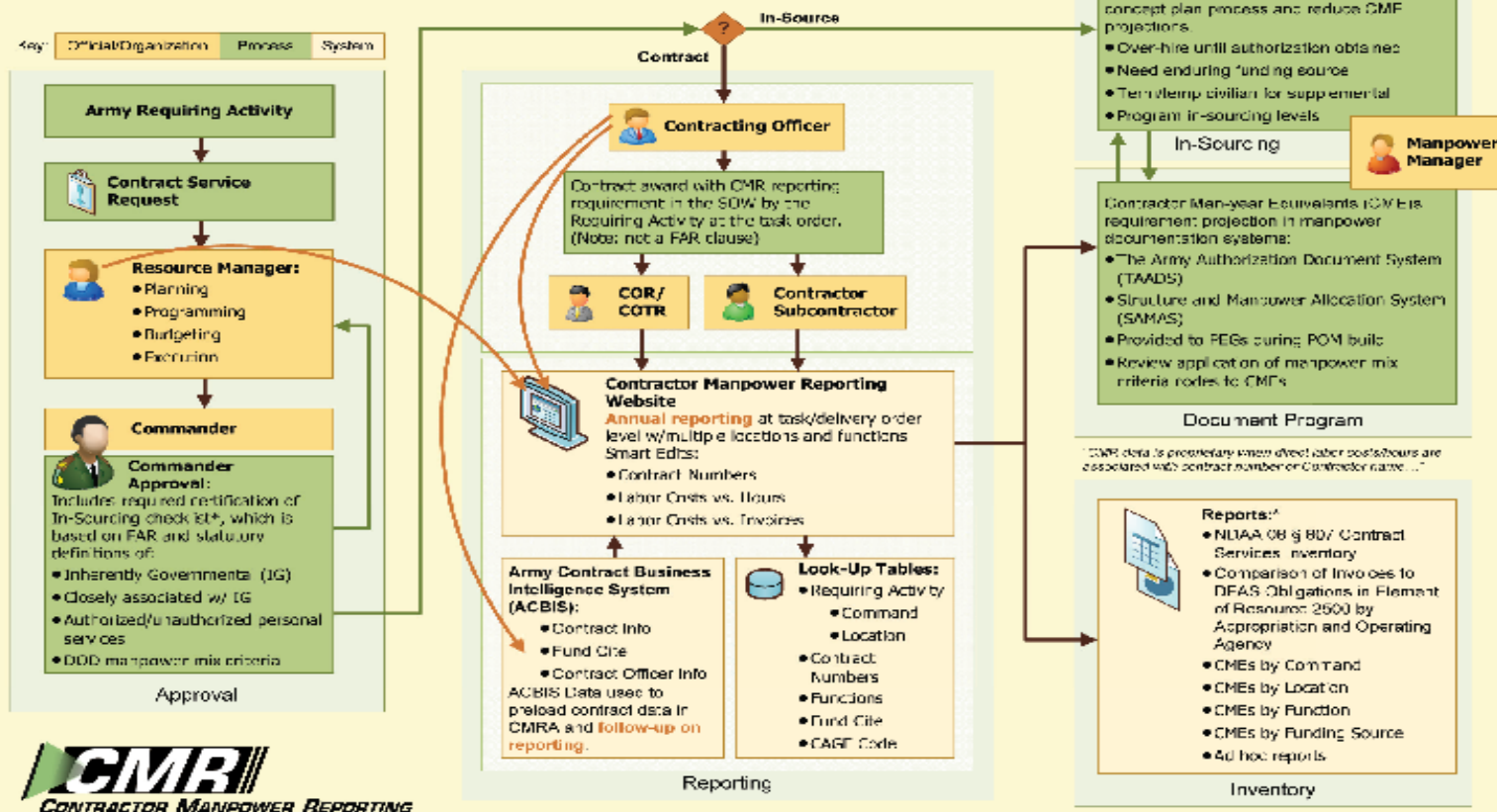


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Service Contracting/In-sourcing Business Process

Service Contracting/In-Sourcing Business Process



RESOURCE MANAGEMENT DECISION (RMD) 802



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In-sourcing Tiger Team Update

- RMD 802 target to in-source 2,900 FTEs (5,200 ES) in FY10 ramping to *at least* 8,900 FTE in FY15.
- RFG allows Commands to submit Schedule 8 for 4,118 positions identified in in-sourcing concept plans provided that valid enduring funding sources are identified.
- Tiger Team/PDC is identifying prioritization for additional in-sourcing candidates and contract divestitures based on following statutory-based priorities
 - Inherently governmental must be in-sourced, or divested if in-sourcing not feasible
 - Acquisition
 - Closely associated with inherently governmental
 - Unauthorized personal services
 - Function performed by civilian employees in last 10 years
 - KO determines contracts poorly performed due to excessive costs or quality
 - Non-competitive contracts
- Reprogramming will be required.
- In-sourcing in HQDA Principal offices barred until FY12 due to statutory restrictions, unless they are acquisition functions.
 - This may be mitigated by realigning functions to FOAs and creating headroom in HQDA
 - Next report to Congress poses risk to retaining 7K plus contract FTEs in HQDA when statutory limit is 3,260 (as adjusted for 5% in-sourcing wavier in FY09)
- CHRA/CPOC freeze to reduce by 200 positions in FY09 because of funding shortage
 - Recommend reducing HQDA contracts to fund this immediately
- RMD 802 acquisition workforce in-sourcing target of 1,000 positions in FY10, ramping to at least 5,300 positions in FY15
 - Very few acquisition positions identified in Command concept plans
 - To date, PDC has identified in ASC 3,980 acquisition position in-sourcing candidates





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Contacts

- ❖ **In-sourcing policies and FY 2007 Contractor Inventory are at <http://www.asamra.army.mil/insourcing>**
 - ❖ **Policy POCs are: Dr. John Anderson, (703) 693-2119**
 - ❖ **Ms. Eileen Ginsburg, (703) 693-2109**
- ❖ **Data entry site for Contractor inventory is at <https://cmra.army.mil>**
- ❖ **FY 2007 Report of Contracted Services is on the ASA(M&RA) webpage at weblink: <http://www.asamra.army.mil/ref.htm>**

Army FY2007 Report of Contracts for Services
Follow this web-link to download the Army FY 2007 Contractor Manpower Report into Microsoft Excel for analysis. The report includes summaries of total contract costs, labor costs, and contractor full-time equivalents for each Army Command, contracted function, country, and state. The report also includes a listing of the number of contractor full-time equivalents by Contractor.
- ❖ **FY 2008 Preliminary Report of Contract Services**
 - ❖ **Hardcopy / Softcopy (CD-ROM) provided with briefing**



BACKUP

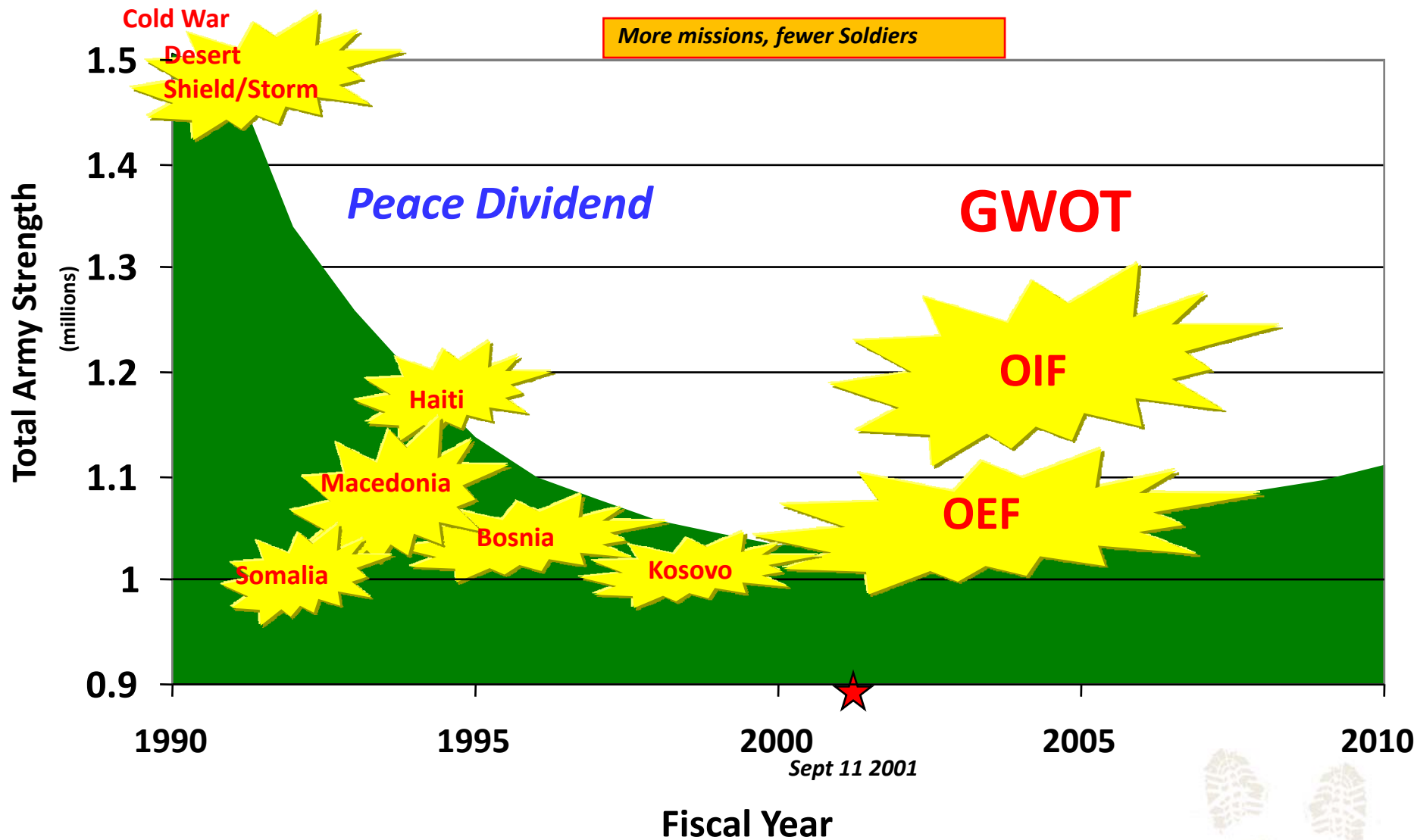


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Size of the Army Over Time vs. Level of Conflict

43 Deployments in 17 years





Inherently Governmental

Inherently governmental originally an acquisition concept on what “can not” be contracted divorced from force structure/manpower planning and human capital planning

- ❖ **Note: human capital planning has been distinct discipline from manpower/force structure planning**
- ❖ **Different issue from what “should not” be contracted**
- ❖ **Often policies have been written to maximize discretion to contract or protect against outsourcing targets rather than on what should be core competencies of government**
- ❖ **Inherently governmental definition generally adequate in infrastructure except for:**
 - ❖ **Legal advice**
 - ❖ **Intelligence analysis**
 - ❖ **Closely associate with inherently governmental?**
- ❖ **Inherently governmental is cumbersome construct in operational/contingency environment (asymmetric , hybrid and full spectrum warfare)**
 - ❖ **FAR only defines command of military units as inherently governmental**
 - ❖ **DODI 1100.22 defines combat operations as inherently governmental**
 - ❖ **Have we placed our military commanders in an untenable situation? (This point developed in separate chart)**
- ❖ **Constitution vests in Congress power to issue letters of marque and reprisal**
 - ❖ **Do contractors on battlefield exacerbate military-civil connection?**
 - ❖ **Do contractors on battlefield diffuse accountability to Congress and public for execution of wars?**





Policy Concerns

- Are there too many contractors performing closely associated with inherently governmental functions in headquarters and in acquisition functions?
- What is risk of contractor default or impossibility of performance when mission risk is too high for some essential services?
- Have we contracted out core competencies ?
- How do we deal with the sense of Congress on Private Security Contracts and Contract Interrogators ?
- Has the tension between contracting authority and command authority been sufficiently clarified?
- Is there sufficient integration of C3I between military and contractors ?
- Does SOFA treatment of contractors affect viability of some contracting?
- Have MEJA/UCMJ and other criminal statutes been sufficiently tested through litigation?
- Is human trafficking risk for some HCN/TCN sub-contracts sufficiently mitigated through enforcement of DFARS clause?
- Have we adequately accounted for risk of sabotage by HCN/TCN contracts?
- Why not account for HCN/TCN casualties?
- Have we adequately planned for and provided for security for contractors/subs?
- Is equity of medical treatment/evacuation for contractors a potential concern?
- Are there sufficient numbers of adequately trained CORs on site?
- Is the decision to contract too late in the PPBE process to allow for other alternatives? Should Total Army Analysis start to model the full requirement performed by contract and balance the risk of contract vs. military performance?
- Do current costing data sources and techniques adequately account for risk, sufficiency of risk management structures, and contingent liabilities?



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Any Army supplement to and details of the Army's usage of the in-sourcing guidance required by Section 324 FY 08 NDAA.
(Cost Savings)

- **Civilian Costs:** costs associated with government employees. The following list contains the types of direct costs included in in-sourcing cost analysis:
 - **Civilian Pay**
 - Compensation: base; holiday; overtime; and premium pay
 - Benefits: health insurance; life insurance; employee compensation
 - Retirement: army funded retirement; government funded retirement ; and retirement benefits
 - **Travel Costs**
 - **Overhead when applicable**
- **Contractor Costs:** come from the actual contract and include the following cost categories:
 - **Wages**
 - **Direct Costs – other than wages (i.e., labor or materials)**
 - **Travel**
 - **Overhead – other than travel (i.e., utilities, maintenance, leasing of space)**
 - **Reimbursable Costs – meals, incidentals, etc.**
 - **Other contract administrative costs and costs not captured within the contract**
 - **Penalties for ending the contract**

